CR 25 of 2002.

19.9.2007 Present: Mr. K.L.Bali, counsel for the petitioners.

Mr. Romesh Verma, counsel for respondents 1 to 3.

This is the plaintiffs revision against the judgment of learned Additional District Judge dismissing the appeal preferred by the plaintiffs against the order of the learned trial Court declining to grant ad interim injunction under Order 39 Rules 1 and 2 of the Code of Civil Procedure.

The plaintiffs filed a suit praying for a decree of declaration to the effect that the sale deeds, subject matter of the suit, are illegal and do not bind the interests of the plaintiff. An application under Order 39 Rules 1 and 2 of the Code of Civil Procedure was filed praying that the defendants be restrained from raising construction on the suit land. The learned trial Court, after detailed evaluation, found that no prima facie case existed in favour of the plaintiffs and dismissed the application. An appeal preferred before the learned District Judge was dismissed. The plaintiffs are now in revision before this Court.

I have heard the learned counsel for the parties and gone through the record.

Learned counsel for the respondents – defendants submits that revision is not maintainable in view of the law laid down by the Hon'ble Supreme Court in Shiv Shakti Co-op. Housing Society v. M/S. Swaraj Developers and others (AIR 2003 SC 2434) and further that since two Courts have concurrently refused to grant injunction, this Court would have no jurisdiction to entertain the revision. He seeks assistance from the judgment of the Hon'ble Supreme Court in The Municipal Corporation of Delhi v. Suresh Chandra Jaipuria and another (AIR 1976 SC 2621).

Without considering the relative contentions on the question of maintainability or disposing of the revision on merits, and considering the fact that a considerable long period of time has elapsed, this revision petition is disposed of with the direction that if any construction over the suit land is or has been made during the pendency of the revision petition, it will be subject to final decision of the suit till its logical conclusion. This revision petition is accordingly disposed of. Parties are directed to appear before the

learned trial Court on 5th November, 2007. The case is an old one and it is expected that the matter will be disposed of expeditiously by the trial Court.

Registry is directed to send the record to the trial Court forthwith.

September 19, 2007(PC). (Dev Darshan Sud), J.